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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Association Bharathi Centre Culturel Franco-Tamoul, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Thoothukudi Peoples' struggle In Tamil Nadu need Special Procedures mandate holders*

Need URGENT action from OHCHR and Special procédures mandate holder regarding Tamil Nadu issues, In Tamil Nadu's Thoothukudi district, protests against Sterlite's copper smelter plant get a second wind as local residents' health and environmental concerns over the company's expansion plan lead to the revival of a long-forgotten people's movement.

On May 22, 2018, the people of Thoothukudi(Tuticorin) were protesting for the 100th day against the environmental damage caused by the copper smelter unit of Sterlite Copper company, a unit of Vedanta Group. 100 days of protests that turned violent on May 22nd, with police firing on the protesters and killing, as on date, 13 persons and injuring others, with great damage to public and private property.

PEOPLE of the port town of Thoothukudi (Tuticorin) in Tamil Nadu had never before poured out onto the streets in such large numbers as they did on March 24 in solidarity with the 100-odd residents of Kumareddiapuram who are waging a battle against the proposed Rs.3,500-crore expansion plan of Sterlite Industries (India) Limited's giant copper smelter plant situated in the State Industries Promotion Corporation of Tamil Nadu Limited (SIPCOT) complex that adjoins Kumareddiapuram and a few other villages.

The residents fear that the Sterlite Copper plant will rob them of their livelihoods and, perhaps more importantly, "cripple future generations". The spontaneous mass turnout, which was likened to the "Marina struggle" of 2017 in Chennai, and the shutdown of business establishments and shops in protest against what they called "the most hazardously polluting agent" paralysed the town for eight hours and also revived the spirit of the mass agitation of a decade or so ago against the smelter plant.

Sterlite Industries, a subsidiary of the London-listed conglomerate Vedanta Resources, has been synonymous laid the foundation stone for the Rs.1,300-crore smelter project on October 31, 1994, despite stiff opposition from residents.

'Pollution capital'
Thoothukudi has, the town's residents say, emerged as the State's "pollution capital", what with many chemical industries in the area spewing out noxious fumes. Instead of addressing satisfactorily the issues that people raise, Sterlite, it is alleged, resorted to knee-jerk responses and indulged in what the protesters called "unethical practices" to break their protest.

With no clean air to breathe and no potable water to drink, we are trapped in this village, 70, of Kumareddiapuram. "The land has remained fallow and barren. Though it is rain-fed dry land, we used to cultivate pulses, maize, and so on. But farming is no longer feasible. The groundwater has been totally contaminated. We also suffer from chronic lung and skin infections. A sharp increase in cancer patients among us is also noticeable.

Sustained campaign
People in Thoothukudi recall how they, with support from all sections of society, had launched a coordinated campaign, which sadly petered out mainly owing to differences of opinion among the movement's members. Initially, the church took the initiative in organising protests involving a large number of fishermen. "It was natural that fishermen were apprehensive. Discharge of effluents into the ecologically fragile Gulf of Mannar, they feared, would destroy fish breeding spots and jeopardise their livelihood,".

The people's movement could not carry the agitation forward. Besides. The protesters, mainly fishermen, prevented Sterlite from laying an eight-kilometre-long pipeline cutting through the town to discharge effluents into the sea. Farmers in rural areas, to, staged agitations when the State government, in its order of February 28, 1995, allocated water to Sterlite Industries (2.50 million gallons a day) from its 20 mgd water supply scheme from the Tamiraparani river. The ayacutdars and other stakeholders were annoyed over the supply of water to industries in the SIPCOT complex at the cost of agriculture and drinking water needs.

Court cases

Sterlite has been facing a number of cases in various courts and also in the National Green Tribunal (NGT). The Madras High Court ordered the plant's closure on November 23, 1998, on the basis of a petition filed by the non-governmental organisation National Trust for Clean Environment, which stated that the environmental clearance granted by the State government to the plant was in violation of the provisions of the Environment (Protection) Act, 1986, the Environment (Protection) Rules, 1986, and other notifications issued thereafter. Vaiko, and K. Kanagaraj and Appadurai of the Communist Party of India (Marxist) impleaded themselves in the case.

Violent turn

Tamilmandan, one of the coordinators of the movement, was arrested. He denied any involvement in the blast. "I was harassed and tortured. Many other members were threatened. When it was over, the people's movement got diluted with none to coordinate its activities. Those who were with me had also left. I had to fight all alone to get myself exonerated of all the charges. When I was actively involved in the movement, I was just 30. I could marry only at the age of 41. Only fishermen and a few of my friends stood by me at that time of crisis,"

The unit in Thoothukudi has had a tumultuous history with closures ordered by the Tamil Nadu Pollution Control Board, a 2013 gas leak that was said to have affected the health of the villagers and the degradation of the environment, and allegations of groundwater pollution in the area. On May 23, 2018, the Tamil Nadu High Court ordered Vedanta to "cease construction and all other activities on-site proposed Unit-II of the Copper Smelting Plant at Tuticorin with immediate effect." The HC was hearing a writ petition filed in public interest challenging the environmental clearance obtained by Unit-II on 1.1.2009, and subsequently extended on later dates.

While the environmental hazards of the plant and of similar projects of Vedanta industries in other parts of the country are one serious aspect of this issue, the present matter concerns the criminal behaviour of the Tuticorin police in the manner in which the protesters were handled.

Tamil Rights activists, were there at the site of the protests and in its press release states that the protesters turned violent after the police fired upon them. The absolute lack of preparedness of the police and the state administration was clearly visible, according to many Tamil Rights activists, and the escalation of the protests and the violence thereafter that killed so many people, could have easily been avoided.

The protests did not mushroom overnight. The protesters were there for more than 3 months, peacefully demanding their rights and some modicum of action from the authorities. The frustration and anger of the protesters predictably reached boiling point due to the willful ignorance and negligence of the state authorities. The police firing that was alleged to be indiscriminate and random, with the protesters being fired upon by plain clothes policemen, is a gross and clear violation of the rule of law. To use firearms must be the last resort of law-enforcement officials and not the first point of aggression, and in doing so, the intentions of the state were betrayed - it was done in order to shut down dissent, violating their right to life under Article 21, and the basic and fundamental principles of a democracy with its foundation in the rule of law.

The aftermath of the violence also saw internet services being shutdown in 3 districts, in order to curb the violence and the spread of 'provocative' messages, a move that is questionable in its efficacy and instead, further betrays the need of the state government to control dissent.

Tamil Rights activists and The people of Tuticorin urge the judicial inquiry ordered in the matter to proceed urgently and effectively. The police officials and state government involved in the decision to fire must be held accountable. This incident once again highlights the failed project of police reforms in India and the urgent need to talk about preventing and punishing police violence and ensuring police accountability. The environmental degradation in the region must be dealt with and Vedanta must be punished, and, prevented from continuing to abuse its position and power to violate the fundamental rights of the people in the region.

Need Urgent Action from special procedure mendante holders on Tamil Nadu Human Rights Violations :

- Mr. John H. Knox, Special Rapporteur on human rights and the environment;

- Mr. Léo Heller, Special Rapporteur on the human rights to safe drinking water and sanitation.
- Ms. Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions;
- Mr. Clément Nyaletsossi Voulé, Special Rapporteur on the rights to freedom of peaceful assembly and of association ;
- UN Working Group on human rights and transnational corporations and other business enterprises,
- Mr. Baskut Tuncak, Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes,
- Mr. Michel Forst, Special Rapporteur on the situation of human rights defenders ;
- Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression ;

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*Tamil Movement (Suisse) and May 17 Movement (Tamil Nadu), NGOs without consultative status, also share the views expressed in this statement.